

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: CATHODE RAY TUBE
(CRT) ANTITRUST LITIGATION

No. 3:07-cv-05944-SC
MDL No. 1917

This Document Relates to:

ALL ACTIONS

ORAL ARGUMENT HEARING
San Francisco, California
Tuesday, January 5, 2016

Reported by:

SUZANNE F. BOSCHETTI

CSR No. 5111

1 that's just words of caution.

2 So I guess I'd like to ask Mr. Cooper and/or
3 Mr. Scarpulla, is it premature for me to submit a report
4 and recommendation on these issues on the 15th when you
5 are going to have a hearing, I believe on January 17, on
6 your motion to be appointed co-lead counsel to represent
7 the interests of class members in -- in non-repealer
8 states?

9 MR. COOPER: I guess we have debated that issue
10 back and forth, Your Honor, as to what to do before we
11 filed. We debated that question before we filed a
12 motion. And we know the schedule is the one that is
13 set, and we have not asked the court to change the
14 schedule or asked you to change the schedule. We do not
15 have any intention, if appointed co-lead counsel, of
16 doing anything other than proceeding with the objections
17 which have been advanced.

18 So we would be proceeding with those objections
19 with or without the designation. The defendants raised
20 the question in response to the motion to be appointed
21 as to whether we would be withdrawing from the
22 settlements. And we said, you know, finally we filed
23 that we can't withdraw from a contract that Mr. Alioto
24 entered into.

25 We can object, and we can be the court

1 we did because we were having a problem or having
2 trouble. We did it as a supplement to the notice to
3 spur claims. And you can imagine that was effective
4 because these are people who had claimed before, and
5 they were -- they would be motivated to claim again.

6 The other argument I want to make and just a
7 sentence or two is we have made in our papers a standing
8 argument with respect to Mr. Scarpulla and Cooper.
9 There's nothing been said about that in these
10 proceedings. We have no intention of waiving that. We
11 think it's a very important issue that counsel should
12 not be able to come in and make all kinds of claims in
13 settlement approval hearings.

14 They certainly have the right to do that under
15 Rule 23, but the crucial point is you have to have a
16 client. You can't just come in off the street or on a
17 volunteer basis or on an intermeddler basis and make
18 these arguments because these have consequences for us.

19 We're going to be briefing these questions. We
20 may have appeals. It's a very time-consuming, expensive
21 process, and you have to meet that threshold requirement
22 of representing a client. The cases are clear on that.
23 And the cases cited by the objectors do not provide any
24 support for these objections on behalf of indirect
25 purchasers. There's absolutely no basis for doing so.

1 SPECIAL MASTER: Okay.

2 MR. ALIOTO: Thank you.

3 SPECIAL MASTER: Glad you brought that up. Mr.
4 -- just start with Mr. Cooper because you're closest.

5 As I understand the papers, you and your firm
6 currently represent a named or formerly named class
7 representative, correct?

8 MR. COOPER: That is correct, Your Honor, but I
9 believe in addition we are counsel of record for the
10 entire class.

11 SPECIAL MASTER: I know. One question at a
12 time. Okay? So you actually may represent a named
13 member of the class?

14 MR. COOPER: We do.

15 SPECIAL MASTER: Okay. Mr. Scarpulla, you did
16 represent a named class representative when you were
17 with the Zelle firm. What is your status now?

18 MR. SCARPULLA: As part of my agreement leaving
19 Zelle, I was made a -- another lawyer of record for
20 those -- for that client. However, I was told by Zelle
21 that the client does not -- does not approve of my
22 objections.

23 SPECIAL MASTER: Okay. So -- but officially
24 you are still counsel of record for a client in this
25 case?

1 MR. SCARPULLA: That is correct.

2 SPECIAL MASTER: Okay. But in bringing these
3 objections that you both have made, you are not bringing
4 them on behalf of your clients, you are bringing them in
5 your capacity as class counsel in furtherance of your
6 fiduciary duties, correct?

7 MR. SCARPULLA: I think Mr. Cooper is bringing
8 it on behalf of his clients.

9 MR. COOPER: No, I think that's a fair
10 statement from me.

11 MS. CAPURRO: That's not what their papers said
12 when they filed their objection.

13 SPECIAL MASTER: Well, their papers --

14 MS. CAPURRO: None of their papers have said
15 that today.

16 SPECIAL MASTER: No, none of their papers name
17 a client on whose behalf they're bringing the objection.
18 As I understand it, they are bringing it in their
19 capacity as class counsel, not on behalf of a client.
20 And that is your standing.

21 MR. ALIOTO: We would just ask you to look at
22 the authorities on that, Your Honor. We think it's an
23 important point --

24 SPECIAL MASTER: Okay.

25 MR. ALIOTO: -- and that we'd like you to

1 consider.

2 SPECIAL MASTER: Ms. Capurro.

3 MS. CAPURRO: If I may just briefly, I have
4 look extensively at the law on this, and I can find
5 absolutely no case that permits counsel in a case who
6 are not court appointed class counsel. The cases that
7 they cite in their brief -- and they're not court
8 appointed class counsel to bring an objection to a class
9 action settlement and oppose the position of the court
10 appointed class counsel.

11 SPECIAL MASTER: Why are they not court
12 appointed class counsel the same as all the other
13 lawyers in the --

14 MS. CAPURRO: Mr. Alioto was the only court
15 appointed class counsel. All of the case law that they
16 cite in their brief, those cases when they refer to
17 class counsel, they refer to the court appointed class
18 counsel. If you have a situation where every -- every
19 lawyer in an MDL case, which is potentially hundreds of
20 lawyers, is able to speak on behalf of the entire class,
21 I mean if you take that to its logical conclusion, how
22 do you run the case?

23 I mean Mr. Alioto would be saying one thing,
24 and they can pipe up and say something else. How do the
25 defendants know who to deal with? How does the court

1 know who to deal with? What's the point of even having
2 an order appointing lead counsel if they're able to do
3 that?

4 SPECIAL MASTER: Well --

5 MS. CAPURRO: And this is not a procedural
6 issue, Your Honor, this is jurisdictional. And the fact
7 that they have filed this motion to be appointed as
8 co-lead counsel actually shows that they recognize they
9 have a standing problem. That's -- they're trying to
10 bootstrap themselves in here to get the court's nod to
11 give them the voice, you know, to be able to speak on
12 behalf of these objecting plaintiffs who they've never
13 identified.

14 SPECIAL MASTER: Well, you know, I'm -- I'm
15 cognizant also the court has an independent fiduciary
16 duty to protect the interest of the class. And if
17 information is brought to the court from any source, I
18 sort of think the court has an obligation to consider
19 it. But I -- I need to look at the authorities you've
20 cited with care.

21 MS. CAPURRO: I submit there is no law, and
22 they have cited to none, and it is their burden to show
23 standing. They have not cited to one case --

24 SPECIAL MASTER: Okay.

25 MS. CAPURRO: -- that gives them standing.

1 SPECIAL MASTER: I get it.

2 Is there -- Ms. Kirkham. You have your hand
3 up. Ms. Kirkham.

4 MS. KIRKHAM: Okay. I know I'm pointing out
5 the obvious, but if there was one lead counsel and all
6 other counsel are silenced by that appointment, and that
7 lead counsel recommends a settlement --

8 SPECIAL MASTER: Who is going to object.

9 MS. KIRKHAM: -- you have an issue there.

10 SPECIAL MASTER: Okay. Mr. Bonsignore, I saw
11 some activity down there.

12 MR. BONSIGNORE: Yes, Your Honor, very briefly
13 I represent six plaintiffs, two of which were named
14 plaintiffs in the settlement class, and we joined and
15 adopted their arguments in my paper. I do agree that
16 they do have separate standing, but in the event --
17 thank you.

18 SPECIAL MASTER: Good.

19 Mr. St. John.

20 MR. ST. JOHN: Your Honor, the argument you
21 just made is precisely the holding of Zucker v
22 Occidental Petroleum Corporation. I don't have the
23 cite, but it was Case No. 9756270 decided by the Ninth
24 Circuit on October 19th, 1999. The court has an
25 independent obligation to consider whatever information

1 is before it regardless of standing.

2 MS. CAPURRO: We're not disputing that. That's
3 not the argument.

4 SPECIAL MASTER: I think I understand the
5 argument.

6 MR. COOPER: You have briefing on all of this,
7 Your Honor.

8 SPECIAL MASTER: I do. I do.

9 MR. SCARBOROUGH: Your Honor, if we're down to
10 sort of parting remarks here, I just want to say from
11 the defendants' perspective, you know, we have put a
12 tremendous pot of money into escrow. As I think lead
13 counsel pointed out may be the second largest indirect
14 purchaser settlement ever. So a tremendous amount of
15 money that they have already paid, it's already sitting
16 in escrow and has been for some time.

17 That money was put there to buy global peace
18 for this litigation for IPP claims with the same factual
19 predicate. So that's what we want. That's what LG
20 already got. They already paid a considerably smaller
21 amount of money for the exact same release that we are
22 asking for here. So what we would like to see is at
23 least to get past that first threshold, that the money
24 that was paid, this extraordinarily large amount of
25 money that was paid is sufficient for the global

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby certify:

3 That the foregoing proceedings were taken
4 before me at the time and place herein set forth; that
5 any witnesses in the foregoing proceedings, prior to
6 testifying, were duly sworn; that a record of the
7 proceedings was made by me using machine shorthand which
8 was thereafter transcribed under my direction; that the
9 foregoing transcript is a true record of the testimony
10 given.

11 Further, that if the foregoing pertains to the
12 original transcript of a deposition in a Federal Case,
13 before completion of the proceedings, review of the
14 transcript [] was [] was not requested.

15 I further, certify I am neither financially
16 interested in the action nor a relative or employee of
17 any attorney or party to this action.

18 IN WITNESS WHEREOF, I have this date subscribed
19 my name.

20 Dated: 1/10/16.

21 
22

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